

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

JENNIFER STANWICK-KLIMEK, Plaintiff, vs. MIKE LEIDHOLT, in his official capacity as the Secretary of the South Dakota Department of Corrections, and ROBERT DOOLEY, Defendants.	19-cv-4101 COMPLAINT (JURY TRIAL DEMANDED)
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Plaintiff Jennifer Stanwick-Klimek, by and through her attorney Johnson Pochop & Bartling, brings this action for retaliation, discrimination and of violations of law, stating the following claims against the Defendants:

PARTIES

1. Jennifer Stanwick-Klimek ("Plaintiff") is a resident of Yankton County, South Dakota.
2. Mike Leidholt serves as the Secretary of the South Dakota Department of Corrections ("the DOC"), which operates the Mike Durfee State Prison in Bon Homme County, South Dakota. The Mike Durfee State Prison is the second biggest prison facility in the DOC.
3. At all relevant times, Robert Dooley was a South Dakota resident and was employed as the warden at the DOC's Mike Durfee State Prison.
4. At all relevant times, the Plaintiff was an "employee" of the DOC within the meaning of 42 U.S.C. § 2000e(f) and S.D.C.L. § 20-13-1. During her employment, the

Plaintiff's employment was based at the Mike Durfee State Prison.

JURISDICTION & VENUE

5. This action arises under Title VII of the Civil Rights Act of 1964, as amended at 42 U.S.C. § 2000e *et seq.* ("Title VII"). As such, this Court has original jurisdiction to hear this Complaint and to adjudicate the claims stated herein pursuant to 28 U.S.C. § 1331.

6. The Plaintiff brings additional claims under the South Dakota Human Relations Act as codified at S.D.C.L. § 20-13-1 *et seq.*, and South Dakota common law. Supplemental jurisdiction is proper for such claims under 28 U.S.C. § 1367.

7. Venue is proper under 28 U.S.C. § 1391 because the events or omissions giving rise to the claims occurred within the Southern Division of the District of South Dakota.

FACTUAL ALLEGATIONS

8. In October 2003, the Plaintiff was hired as a training specialist by the DOC. Among other duties, the Plaintiff was responsible for the development, implementation and training of core DOC policies.

9. Throughout her employment, the Plaintiff received positive performance evaluations and numerous personal commendations from her DOC superiors for her performance and her dedication to the DOC. Now retired Secretary of the Department of Corrections Denny Kaemingk personally acknowledged and congratulated the Plaintiff for her performance and accomplishments that set her apart from other DOC employees.

10. In 2007, the Plaintiff was promoted to the position of Associate Warden of the Mike Durfee State Prison. In approximately 2009, the Plaintiff was appointed as the DOC's Director of Training and Director of Education for all adult DOC facilities; among other

duties she was responsible for developing the DOC's sexual harassment, communication and leadership training modules. In March 2013, the Plaintiff was promoted to the position of the Deputy Warden of the Mike Durfee State Prison.

11. The Plaintiff's supervisor at the Mike Durfee State Prison was Robert Dooley. Dooley had worked in the DOC since 1983. He had worked his way up in DOC leadership from a position as a guard and was ultimately named as the warden of the Mike Durfee prison in 1995.

12. As warden of the Mike Dooley State Prison between 1995 and early 2018, Dooley exercised control of the prison staff and oversaw all disciplinary actions. Because of his long tenure, he believed that he could override or ignore DOC policies and procedures if he felt like it.

13. Employment decisions at the Mike Durfee State Prison went through Dooley for approval.

14. In the last years of his employment, Dooley became concerned about his legacy at the facility, especially after a DOC internal survey in 2017 documented that the staff at the Mike Durfee State Prison felt disengaged and were unsatisfied with the agency's leadership.

15. Throughout her employment, the Plaintiff was expected to tolerate stereotyped and offensive gender-based comments from Dooley and other male DOC employees regarding the physical attractiveness and imagined sexual preferences of women who came to or worked in the prison facility.

16. Although Dooley's and her male co-workers' gender-biased comments made Plaintiff uneasy and upset, she feared that reporting Dooley would adversely affect her

career. She tried to combat the stereotyped comments that she encountered in her workplace with excellent performance.

17. Throughout her DOC employment, the Plaintiff was repeatedly praised for her exceptional performance, which was documented in her annual performance evaluations. For example, Dooley completed the Plaintiff's detailed 2016, 2017 and 2018 performance evaluations and rated her performance at every measurable level as above average or exceptional.

18. The Plaintiff was never subject to disciplinary action during her DOC employment.

19. In her performance evaluation in February 2018, Dooley acknowledged that the Plaintiff had extremely high ethical standards and was a strong team builder. He summarized the Plaintiff's performance as follows: "[Plaintiff] is the perfect example of a hard working dedicated professional. She thrives on challenges and is a problem solver. She looks forward to multiple tasks at one time and always produces quality work in a timely manner. Jennifer is dependable, knowledgeable in many areas from securities to information systems. She is an invaluable asset to the DOC management team."

20. Between 2014 and 2018, three male subordinate employees openly and repeatedly engaged in conduct that violated DOC policies, including its sexual harassment policy, its workplace safety policies and its disciplinary policies. The behavior ranged from a male employee being criminally charged with disorderly conduct and intentional damage to property in relation to behavior directed at a female law enforcement officer; to a male employee throwing a "Titanic"-themed staff party with the tag line that the Plaintiff was a

disastrous administrator; to encouraging inmates and other staff to be disrespectful to the Plaintiff. Male supervisors would not have been expected to tolerate this harassing and insubordinate behavior.

21. The Plaintiff felt that the escalating hostility exhibited toward her by the subordinate male staff members that she supervised was bad for morale and was potentially a safety risk.

22. In March 2016, the Plaintiff first reported to Dooley and HR Manager Kirk Edison that she felt that she was being subjected to a hostile work environment from the male employees who were targeting her with insubordinate behavior and encouraging other staff and inmates to do the same.

23. Edison's response to the Plaintiff's hostile environment report was to suggest that the Plaintiff should find ways to be "nicer" to her harassers.

24. After her report, Dooley met with the Plaintiff's primary harasser, Dustin Tjeerdsma, in local park to discuss the Plaintiff's work performance. Another employee meeting was held in a cornfield.

25. Dooley subsequently told the Plaintiff that she needed to stop wearing skirts and dresses to work because even though her wardrobe was professional, unnamed male staff members thought that she was dressing in violation of the Prison Rape Elimination Act. He also stated that she should not bring her daughter to the facility any longer because unnamed male staff also complained about that. No DOC employees were subject to these conditions of employment.

26. Shortly after the Plaintiff's 2016 hostile work environment report, Tjeerdsma was

reported for harassing a different female DOC employee by hiding her radio to “teach her a lesson.” Even though Tjeerdsma’s conduct was a safety violation, when the Plaintiff reported his behavior to Dooley, Dooley instructed the Plaintiff not to do anything more about the incident.

27. At a May 2016 disciplinary grievance meeting that Dooley and Edison attended, Tjeerdsma hollered and threw papers at the Plaintiff. Tjeerdsma was not disciplined for his threatening and insubordinate behavior even though both men personally witnessed it. No male supervisors would have been expected to tolerate this physical aggression by a subordinate.

28. The effect of Dooley’s failure to consistently apply DOC policies and procedures to male staff members encouraged an increasingly hostile and unstable work environment at the prison.

29. In September 2016, the Plaintiff presented HR Manager Jeff Wilson with a written hostile work environment report after other employees reported that Tjeerdsma was referring to the Plaintiff in the workplace as “Public Enemy #1” and was suggesting ways that staff could get her fired through media reports. To the best of the Plaintiff’s knowledge, there was no investigation into her September 2016 hostile work environment report.

30. In December 2016, a male subordinate named Cody Soukoup described the Plaintiff as a “whore” to five other DOC staff members. Soukoup’s supervisors investigated and initiated termination proceedings against Soukoup. However, Dooley intervened on Soukoup’s behalf and overrode the termination decision.

31. When the Plaintiff complained to Dooley that she felt Dooley’s decision was unfair

and served to promote further hostility in her work environment, Dooley responded that he felt sorry for Soukoup and that as the warden, he could do whatever he wanted.

32. In 2017, DOC administration sent the Plaintiff and the handful of other female DOC administrative level employees an article about sexism in leadership positions that suggested that female administrators should learn to listen more and speak less in order to be successful. Male administrators were not subject to similar workplace expectations.

33. In September 2017, another female DOC employee reported that Tjeerdsma had made inappropriate comments about her over the DOC radio. The incident resulted in a reprimand for Tjeerdsma, but Dooley instructed the Plaintiff to remove the disciplinary action from Tjeerdsma's file despite Plaintiff's objections.

34. In January 2018, the Plaintiff's DOC office was vandalized when her name plate and some plaster were ripped out of the wall by her office door. The Plaintiff reported to Dooley that Tjeerdsma was bragging to other employees that he was responsible for the vandalism. Dooley declined to investigate and told the Plaintiff that there was nothing that could be done about it.

35. In January 2018, during an administrative call with other DOC manager, risk management staff and attorneys, the Plaintiff reported that Dooley had refused to act on her report about Tjeerdsma's behavior and his possible vandalism of DOC property.

36. In March 2018, Deputy Warden Jen Dreiske told the Plaintiff that the Plaintiff should not have to deal with the unfair way Dooley was treating her.

37. In March 2018, the DOC directed HR staff to conduct on-site interviews with staff at the Mike Durfee prison to investigate the work environment. During her interview, the

Plaintiff reported that she had previously made hostile work environment and harassment reports regarding Tjeerdsma to Dooley. She further reported that she had made a hostile work report to Edison in March 2016. The Plaintiff expressed that she was concerned about retaliation because of her reports.

38. On March 7, 2018, the Plaintiff talked about her hostile work environment claim with her friend, Associate Warden Schieffer. She told Associate Warden Schieffer that she planned to apply for the warden position and that she would consider suing the facility for discrimination and hostile work environment if she was not hired for the position.

39. On March 8, 2018, Dooley called the Plaintiff and told her that she should not have contacted other staff members about his decisions.

40. Dooley instructed Schieffer and another employee to report Plaintiff's comments about bringing a hostile work environment complaint against the DOC to HR, and Dooley also called the Secretary of the Department of Corrections to report the Plaintiff's comments about suing the DOC on a hostile work environment claim.

41. On March 12, 2018, HR Manager Jennifer Meyer told the Plaintiff that there had been a harassment and retaliation complaint made. Meyer suggested that someone had made such a report on the Plaintiff's behalf. The Plaintiff advised Meyer that she was reluctant about reporting while Dooley was still the warden because he had not addressed any of her prior hostile work environment claims and because she was afraid that he would retaliate against her. Meyer responded that the Plaintiff was going to have to meet with other HR staff because a harassment and retaliation report had been made. A meeting was scheduled for March 14.

42. The Plaintiff requested to be able to have an attorney present at the March 14 HR

meeting regarding the harassment and retaliation report. This request was denied.

43. On March 14, 2018, the Plaintiff was interviewed about the harassment and retaliation report by HR Managers Molly Luebbe and Terry Lloyd. Luebbe and Lloyd did not discuss the Plaintiff's sexual harassment reports or her concerns about retaliation. Instead, they questioned how the Plaintiff had attained her promotions, inquired whether the Plaintiff had a media interview planned, asked whether the Plaintiff's mother worked at a law firm, asked if the Plaintiff has been researching the Warden's divorce where he was adjudged to have subjected his wife to mental cruelty, and finally inquired whether the Plaintiff intended to sue the DOC. They also asked the Plaintiff how she thought the rest of the staff would perceive her interview with HR. The Plaintiff reiterated her fears about retaliation if other staff discovered she was participating in the interview.

44. On March 29, 2018, DOC Secretary Kaemingk and HR Manager Meyer met with the Plaintiff and handed the Plaintiff a letter that stated that the Plaintiff was being placed on indefinite administrative leave. They instructed her to turn in all DOC equipment. Within hours after this meeting, Dooley sent out an email to all staff announcing that the Plaintiff had been placed on administrative leave. This was not standard DOC policy for an employee placed on leave.

45. Unable to tolerate the work conditions any longer and being familiar with Dooley's termination procedures, the Plaintiff recognized that she was being constructively terminated and notified the DOC that she was submitting a resignation.

46. By 6:00 p.m. on March 29, DOC staff had provided an inaccurate report about the Plaintiff's termination to KELO news. A copy of Dooley's email to DOC staff about the

Plaintiff's suspension was included in the KELO story.

47. The DOC failed to correct inaccurate information that was published about the Plaintiff's performance and termination that had been circulated by DOC staff to the media, and by ratifying its staff member's representations as published, it participated in an effort to undermine the Plaintiff's employment opportunities, to publicly humiliate her and to dampen her interest in bringing a discrimination and retaliation complaint against the DOC and DOC staff members.

48. On April 20, 2018, the Plaintiff submitted her application for the warden position after Dooley retired.

49. The Plaintiff was interviewed for the position despite her qualifications and a male with less qualifications and experience was selected for the job.

50. The Plaintiff filed her Charge of Discrimination on August 2, 2018.

CAUSES OF ACTION

COUNT ONE

Reprisal Discrimination in Violation of Title VII of the Civil Rights Act of 1964 against Defendant Leidholt

51. The Plaintiff incorporates the foregoing paragraphs by reference.

52. Title VII, 42 U.S.C. § 2000e-3(a) provides in part that it is an unlawful employment practice for an "employer to discriminate against any of his employees or applicants for employment" or "to discriminate against any individual" "because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter."

53. As described herein, the Plaintiff was suspended and ultimately terminated in retaliation for her protected conduct in violation of 42 U.S.C. § 2000e-3.

54. The Plaintiff was constructively discharged.

55. After her constructive discharge, and in further violation of Title VII, the DOC continued to retaliate against the Plaintiff by interfering with her applications for employment and otherwise ensuring she was denied job opportunities.

56. As a direct and proximate result of the Defendant's unlawful conduct, the Plaintiff has suffered loss of past and future income and employee benefits, mental anguish, emotional distress, humiliation, embarrassment, loss of reputation, and other damages in excess of \$75,000.

57. The Plaintiff is entitled to make a claim of punitive damages because the Defendant committed the alleged conduct with reckless disregard and/or deliberate disregard for her rights and safety.

COUNT TWO

Sex Discrimination in Violation of Title VII of the Civil Rights Act of 1964 against Defendant Leidholt

58. The Plaintiff incorporates the foregoing paragraphs by reference.

59. 42 U.S.C. § 2000e-2(a)(1) provides that it is unlawful for an employer "to fail or refuse to hire or to discharge any individual, or to otherwise discriminate against any individual with respect to [her] compensation, terms, conditions, or privileges of employment, because of such individual's ... sex[.]"

60. The Defendant's conduct described herein violates 42 U.S.C. § 2000e-2.

61. As a result of the Defendant's conduct, the Plaintiff has suffered and will continue to suffer past and present loss of income, mental anguish, emotional distress, humiliation,

embarrassment, loss of reputation and other damages in an amount in excess of \$75,000.

62. The Plaintiff is entitled to make a claim of punitive damages because the Defendant committed the alleged conduct with reckless disregard and/or deliberate disregard for her rights and safety.

COUNT THREE

Reprisal Discrimination in Violation of The South Dakota Human Relations Act against Defendant Leidholt

63. The Plaintiff incorporates the foregoing paragraphs by reference.

64. The South Dakota Human Relations Act of 1972 makes it an unfair or discriminatory practice to engage in any reprisal, economic or otherwise, against a person by reason of his or her protected activity, pursuant to S.D.C.L. § 20-13-26.

65. The Defendant's retaliatory conduct described herein, including its treatment toward the Plaintiff, her suspension and her termination, violates S.D.C.L. § 20-13-26.

66. In further violation, the Defendant continued to retaliate against the Plaintiff by interfering with her applications for employment and otherwise ensuring she was denied job opportunities.

67. As a result of the Defendant's violations, the Plaintiff has suffered and will continue to suffer damages, including past and present loss of income, mental anguish, emotional distress, humiliation, embarrassment, loss of reputation and other damages.

68. The Plaintiff is entitled to make a claim of punitive damages because the Defendant committed the alleged conduct with reckless disregard and/or deliberate disregard for her rights and safety.

COUNT FOUR

**Sex Discrimination in Violation of The South Dakota
Human Relations Act against Defendant Leidholt**

69. The Plaintiff incorporates the foregoing paragraphs by reference.

70. The South Dakota Human Relations Act of 1972 makes it an unfair or discriminatory practice to discharge an employee or refuse to hire an applicant because of sex, pursuant to S.D.C.L. § 20-13-10.

71. The Defendant's discriminatory conduct described herein violates S.D.C.L. § 20-13-10.

72. As a result of the Defendant's discriminatory conduct, the Plaintiff has suffered and will continue to suffer damages, including past and present loss of income, mental anguish, emotional distress, humiliation, embarrassment, loss of reputation and other damages.

73. The Plaintiff is entitled to make a claim of punitive damages because the Defendant committed the alleged conduct with reckless disregard and/or deliberate disregard for her rights and safety.

COUNT FIVE

Tortious Interference against Defendant Robert Dooley

74. The Plaintiff incorporates the foregoing paragraphs by reference.

75. By virtue of her employment, the Plaintiff had a valid contractual relationship with the DOC and had a reasonable expectation of economic gain resulting from that relationship.

76. Defendant Dooley acted outside the scope of his employment with the intent to cause the destruction of, or harm to, Plaintiff's employment relationship with the

DOC.

77. Dooley's improper conduct was the proximate cause of the destruction of or harm to the Plaintiff's business relationship with the DOC and other prospective employers.

78. As a direct and proximate result of said conduct, the Plaintiff has suffered loss of income and benefits, career opportunities, career progression, mental anguish, and emotional distress in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Jennifer Stanwick-Klimek prays for judgment against Defendants Mike Leidholt, in his official capacity as the Secretary of the South Dakota Department of Corrections, and Robert Dooley, as follows:

- A. That the practices of Defendants complained of in this Complaint be determined to violate the rights secured to the Plaintiff under Title VII, the South Dakota Human Relations Act and South Dakota common law;
- B. For all relief available to the Plaintiff, including compensatory relief and damages arising from loss of past and future income, benefits, emotional distress, and other damages, with interest on such amounts, and punitive damages in an amount in excess of \$75,000;
- C. For the Plaintiffs attorneys' fees, costs and disbursements incurred herein;
- D. For a jury trial on all issues; and
- E. For such further and other relief as the Court deems just and equitable.

Dated this 13th day of June, 2019.

JOHNSON POCHOP & BARTLING



/s/ Stephanie E. Pochop

Stephanie E. Pochop

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Gregory, SD 57533

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stephanie@rosebudlaw.com

*Attorney for Plaintiff Jennifer Stanwick-
Klimek*

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Jennifer Stanwick-Klimek

DEFENDANTS

Mike Leidholt, in his official capacity as the secretary of the South Dakota Department of Corrections, and Robert Dooley

(b) County of Residence of First Listed Plaintiff Yankton County, SD
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Yankton, County SD
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)
Stephanie E. Pochop Johnson Pochop & Bartling
405 Main Street | PO Box 149 Gregory, SD 57533 (605) 269-0665

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Plaintiff brings suit under 42 U.S.C. SS 2000e(f) and SDCL SS 20-13-1.

Brief description of cause:

Sex Discrimination and Reprisal Discrimination in Violation of Title VII and SD Human Relations Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

06/13/2019

SIGNATURE OF ATTORNEY OF RECORD

/s/ Stephanie E. Pochop

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.